



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JAN 12 2012

Mr. Kevin Baird, Plant Manager  
Roanoke Cement Company  
6071 Catawba Road  
Troutville, VA 24175

Dear Mr. Baird:

Thank you for your June 13, 2011 letter concerning the proposed use of railroad ties as an alternative fuel source in the kiln at the Roanoke Cement Company (RCC) facility in Botetourt County, Virginia. In the letter you seek the Environmental Protection Agency's (EPA or Agency) concurrence that the beneficial use of railroad ties as an alternative fuel is authorized under the facility's current title V permit because the Agency stayed the effective date of the final Commercial and Industrial Solid Waste Incineration (CISWI) rule.<sup>1</sup>

As explained further below, RCC's kiln is a solid waste incineration unit if it combusts solid waste as that term is defined in the final Non-Hazardous Secondary Materials that are Solid Waste Rulemaking (Solid Waste Definition Rule), and the facility will be subject to the CISWI standards promulgated on March 21, 2011, if it continues to combust solid waste and otherwise meets the definition of a CISWI unit on the effective date of the standards. Further, the facility's authority to combust solid waste under its title V permit is a matter that must be addressed by the title V permitting authority.

You explain in your letter that the Virginia Department of Environmental Quality (VADEQ or State) revised RCC's title V permit in 2009 to authorize the facility to burn biomass as a fuel in the cement kiln. In August 2010, VADEQ concluded that creosote treated railroad ties are an acceptable biomass fuel source, but the State also indicated that the proposed Solid Waste Definition Rule and CISWI rules may affect that determination. You state that the final Solid Waste Definition Rule explicitly determined that creosote wood is a solid waste the combustion of which would subject the facility to the final CISWI rule. You further state that the implication of the final rules is that RCC would not be able to combust the railroad ties under the current title V permit; however, you believe that the recent stay of the final CISWI rule means that there are no Section 129 standards applicable to a cement plant combusting solid waste. You believe that because of the stay the use of railroad ties would be authorized under the current title V permit and that the conditions of that permit remain the same until the Agency concludes its reconsideration process.

You are correct that your kiln is classified as a CISWI and that there are currently no Section 129 standards which apply to it. Cement kilns that burn solid waste, as now defined, are

<sup>1</sup> *Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Source: Commercial and Industrial Solid Waste Incineration Units; Final Rule*, Published at 76 Fed. Reg. 15,704 (March 21, 2011).

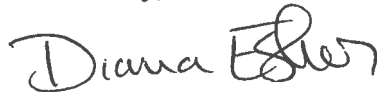


classified as CISWI, but such units are not subject to any standards while the temporary stay remains in place. The Solid Waste Definition Rule and the CISWI standards were published in the Federal Register on March 21, 2011. As noted above, the CISWI standards were stayed, but the Solid Waste Definition Rule was not stayed, and it remains in effect.

In sum, RCC's cement facility is a solid waste incineration unit if it combusts solid waste, but there are currently no CISWI standards applicable to solid waste burning cement kilns. The 2011 rule is not in effect due to the temporary stay, and the 2000 CISWI rule has no standards for energy recovery units or waste burning kilns. Further, RCC's cement kiln is not subject to the Portland Cement NESHAP if it combusts solid waste. EPA cannot determine based on the information provided whether RCC's title V permit authorizes the combustion of creosote treated railroad ties. In any case, EPA is not the appropriate authority to make this determination and RCC should contact VADEQ as its title V permitting authority for a determination on this issue.

We hope this fully responds to the concerns expressed in your letter. If you have any questions regarding this matter, please call Mike Gordon, our Regional Section 111(d)/129 solid waste combustor rule contact, at (215) 814-2039.

Sincerely,



Diana Esher, Director  
Air Protection Division

cc: Jed Brown, VADEQ, Bluewater Regional Office

